

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

NOEMI Z.,
Appellant,

v.

DEPARTMENT OF CHILD SAFETY AND E.Z.-L.,
Appellees.

No. 2 CA-JV 2018-0105
Filed November 7, 2018

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f);
Ariz. R. P. Juv. Ct. 103(G).

Appeal from the Superior Court in Pima County
No. JD20150438
The Honorable Javier Chon-Lopez, Judge

AFFIRMED

COUNSEL

Scott W. Schlievert, Tucson
Counsel for Appellant

Mark Brnovich, Arizona Attorney General
By Michelle R. Nimmo, Assistant Attorney General, Tucson
Counsel for Appellee Department of Child Safety

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MEMORANDUM DECISION

Judge Espinosa authored the decision of the Court, in which Presiding Judge Vásquez and Judge Eppich concurred.

ESPINOSA, Judge:

¶1 Noemi Z. challenges the juvenile court's order terminating her parental rights to her daughter, E.Z.-L., born December 2014, on mental illness and time-in-care grounds. *See* A.R.S. § 8-533(B)(3), (8)(c). We affirm.

¶2 To sever a parent's rights, the juvenile court must find clear and convincing evidence establishing at least one statutory ground for termination and a preponderance of the evidence that terminating the parent's rights is in the child's best interest. *Kent K. v. Bobby M.*, 210 Ariz. 279, ¶¶ 32, 41 (2005); *see also* A.R.S. § 8-863(B). We do not reweigh the evidence on appeal; rather, we defer to the juvenile court with respect to its factual findings because it "is in the best position to weigh the evidence, observe the parties, judge the credibility of witnesses, and resolve disputed facts." *Ariz. Dep't of Econ. Sec. v. Oscar O.*, 209 Ariz. 332, ¶ 4 (App. 2004). We will affirm the order if the findings upon which it is based are supported by reasonable evidence. *See Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, ¶ 4 (App. 2002). We view the evidence in the light most favorable to upholding the ruling. *See Christy C. v. Ariz. Dep't of Econ. Sec.*, 214 Ariz. 445, ¶ 12 (App. 2007).

¶3 The Department of Child Safety (DCS) removed E. from her parents' care in 2015 after a domestic violence incident. The juvenile court found E. dependent as to Noemi after she admitted allegations in an amended dependency petition, which included allegations that she suffered from mental illness for which she had stopped taking psychiatric medication, instead choosing to use marijuana to "treat" those conditions.¹ DCS placed E. in a foster home and began providing services to Noemi.

¹Although Noemi apparently had a valid medical marijuana card, the juvenile court noted that "Both psychologists advised [Noemi] that the only proven methods to stabilize mood disorders[] such as bipolar disorder were prescription medication and therapy."

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¶4 A psychologist evaluated Noemi and determined she was “psychiatrically unstable,” consistent with bipolar disorder, PTSD, narcissistic personality disorder, and borderline personality disorder. The psychologist opined that Noemi would “not be able to safely parent” if she remained unstable and that psychiatric treatment with medication was “the only conventional treatment with demonstrated effectiveness.” Noemi nonetheless declined medication. A second psychologist who evaluated Noemi over a year later agreed she was possibly bipolar and could suffer from borderline personality disorder. Because Noemi refused treatment for bipolar disorder, however, the psychologist did not attempt to rule out any diagnoses or recommend further psychiatric treatment.

¶5 Noemi largely complied with her case plan but demonstrated little progress in learning to ameliorate her mood swings and regulate her volatile emotional outbursts, an ongoing issue. DCS suspended her unsupervised visitation with E. (for the second time²) following an April 2017 hearing with the Foster Care Review Board at which she “spoke rapidly and very angrily” and accused the foster parents of abusing E., causing the Board to request that security escort the foster mother and her licensing worker to their vehicle. In July 2017, Noemi became physically and verbally aggressive at a meeting with E.’s court-appointed advocate and a DCS case specialist. The juvenile court changed the case plan to severance and adoption, and DCS filed a motion to terminate Noemi’s parental rights on mental health grounds and because E. had been in court-ordered, out-of-home care for more than fifteen months. After a contested hearing, the court granted the termination motion on all grounds alleged and found termination was in E.’s best interest.³ This appeal followed.

¶6 On appeal, Noemi generally complains that DCS “did not present ‘clear and convincing’ evidence that [her] parental rights should be severed.” The bulk of her argument, however, appears to ask us to reweigh the evidence, which we will not do. *See Oscar O.*, 209 Ariz. 332, ¶ 4. We have reviewed the juvenile court’s detailed ruling and have determined its findings and conclusions are amply supported by the record and the law. *See Jesus M.*, 203 Ariz. 278, ¶ 16 (citing *State v. Whipple*, 177 Ariz. 272, 274 (App. 1993)). Accordingly, we adopt it. *See id.*

² Noemi’s unsupervised visitation had previously been revoked when, in August 2016, she returned E. four hours late.

³ The court also terminated the rights of E.’s father, who is not a party to this appeal.

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¶7 Noemi's opening brief identifies several arguments that are undeveloped and unsupported by authority. For example, she cites no authority supporting her suggestions that the juvenile court was required to identify a specific mental health diagnosis to terminate her rights under § 8-533(B)(3) or that termination was improper because she could not resolve the condition within fifteen months. Nor does she offer any support for her assertion that DCS provided inadequate services because it ended her unsupervised visitation, or for her claim that § 8-533 is "clearly vague." And, although she lists as an issue the court's finding that termination was in E.'s best interest, she does not address the court's best interest finding in her argument. Accordingly, she has waived these arguments on appeal, and we do not address them further. *See Christina G. v. Ariz. Dep't of Econ. Sec.*, 227 Ariz. 231, n.6 (App. 2011) (failure to develop argument on appeal results in abandonment and waiver of issue).

¶8 The juvenile court's order terminating Noemi's parental rights is affirmed.